



NEW YORK STATE SENATOR

Hugh T. Farley

Sen. Farley Fights to Fix Provision That Would Hide Criminal Records of Drug Dealers

HUGH T. FARLEY June 1, 2009



State Senator Hugh T. Farley (R, C, I - Schenectady) and his fellow members of the Senate Republican conference pushed on June 1st for legislation, supported by District Attorneys and concerned advocates throughout the State, that would fix a dangerous problem created by Democrats who changed the State's drug laws as part of the 2009-10 state budget.

The measure, set to take effect June 8th, allows courts to seal the records of convicted drug dealers and felons who apply for jobs at schools, day care facilities, and nursing homes,

including those with up to three prior misdemeanor convictions, so prospective employers will be prevented from knowing about their criminal backgrounds.

Senate Republicans have proposed a bill (S.5684) to roll back the provisions that prevent prospective employers in positions of trust, such as teachers, day care workers and other care givers from knowing whether individuals they hire could be a threat to children, the elderly, and the infirm.

"I understand that lawmakers were trying to help offenders return to the workforce when they passed the drug reform act, but the provision missed the mark," said Monroe County District Attorney Mike Green. "The concern for offenders must be balanced against the right of the public to have access to information to protect our most vulnerable citizens, and the existing law fails to adequately address public safety considerations. I would urge the legislature to repeal the provisions in the existing law and pass a reasonable law that protects the rights of parents, schools, and other employers to get reasonable information on those they intend to hire as nannies, teachers, school bus drivers, home health aides and others who work with vulnerable citizens."

"Unfortunately a loop hole has been created that seals the record of felons including those that have 4 or 5 prior convictions, said Saratoga County District Attorney, Jim Murphy. "We need to re examine the sealing provisions so that persistent felony offenders do not end up as day care providers or in our schools, without the school district and parents of kids having knowledge and making an informed decision."

"Drugs are the economic tools that enable violent gangs to purchase weapons and terrorize communities. The drug trade is not victimless and non-violent. Drug dealers' sole motivation is profit, with no regard for the horrific tragedies their actions cause. Those who possess and sell controlled substances do not qualify nor deserve to be a special class shielded and protected by the law," said Laura Ahearn, Executive Director, Parents for Megan's Law and the Crime Victims Center. "Sealing their records of criminal convictions personally benefits convicted offenders at the significant cost of placing an unsuspecting public at risk. If the concealing provision of this new law is enacted, someone alone with or teaching your child, or providing day care, health care or home nursing services may not only be a convicted drug dealer, but someone who also engaged in other criminal behavior, including burglary and larceny. Employers have a right to know to protect our most vulnerable. The right to conceal records can never take precedence over the rights and responsibilities the government has to protect the public. We strongly urge the passage of Senator Padavan's legislation which will repeal a significant flaw in the law that places the public at grave risk."

David A. Little, Director of Governmental Relations for the New York State School Boards Association said: "The law to require fingerprinting of all prospective school employees was a monumental step forward in protecting the children of New York State. While everyone deserves a second chance after paying their debt to society, the safety of our children must be of paramount concern. The law requiring criminal background checks on prospective school employees allows for discretion. An applicant will not be summarily rejected because of a prior conviction. But school districts must have a complete history of the adults responsible for our children. Whether driving them to school or alone with them in a school setting, school officials must have the ability to accurately assess the potential risk to children posed by an applicant with a criminal history. As such, NYSSBA supports the effort to repeal a judge's discretion to prevent school access to criminal records."